

E.O.T. (2)

#14

PATENT APPLICATION  
Docket No.: 1735.2.2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ron McCabe et al.  
Serial No.: 09/438,184  
Filed: November 11, 1999  
For: FLEXIBLE REMOTE DATA MIRRORING  
Examiner: Dung C. Dinh (Art Unit 2153)

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RESPONSE

The Honorable Commissioner of  
Patents & Trademarks  
Washington, D. C. 20231

OFFICIAL

Commissioner:

In response to the Office Action mailed May 22, 2003 ("Office Action"), Assignee MiraLink respectfully submits the following remarks.

**ALLOWANCE / APPEAL**

The pending Office Action is the third substantive action issued in this application by this Examiner. All pending claims were rejected in each action. Assignee requests that the next substantive action from the Office either allow the claims (after which the case will issue) or be made final (after which the case will be appealed). Assignee also has the right to appeal even if the next action is not made final. Under 37 C.F.R. § 1.191(a), "Every applicant for a patent ... any of whose claims has been twice or finally rejected, may appeal from the decision of the examiner to the Board...." (citation omitted).

**SECTION 112**

The first office action in this application made no section 112 rejections, but instead

10/30/2003 SRLIZZAR considered the claims sufficiently clear and definite enough to reject them. The second  
01 FC:2252 210 office action introduced a section 112 rejection, to which Assignee responded by citing

2.F6

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To:	Examiner Dung C. Dinh	Date: October 21, 2003
	USPTO	Voice#: 703-305-9655
Fax#:	703-746-7239	Pages: 6, including this cover sheet.
From:	John W.L. Ogilvie	
Subject:	09/438,184 (docket 1735.2.2)	

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